

### **REMARKS**

Claims 1-19 were pending. Applicants have cancelled claims 1-19 and added new claims 20-47. Reconsideration and allowance are requested.

The examiner objected to claims 2-13 and 15-19 based on informalities. Applicants have cancelled claims 1-19 and have provided new claims 20-47. These objections should now be considered moot.

On reviewing the specification, a number of minor informalities were discovered. The amendments to the specification address these informalities. No new matter has been added.

An information disclosure statement is being provided with this amendment.

The examiner objected to the oath or declaration as being defective and required a new oath or declaration in compliance with 37 CFR § 1.67(a). Applicants are providing a petition to accept the previously submitted declaration because Mr. Steinberg is refusing to execute a new declaration.

The examiner objected to the drawings on the basis that Figures 1-6 “do not contain a legend.” This objection is understood to refer to the lack of identification of various boxes in the drawings. New formal drawings with replacement sheets for FIGS. 1-6 are being provided and are believed to be responsive to the objections.

### **INTERVIEW SUMMARY**

A telephonic interview was held among Examiner Hoffman, Randy Krenz (the President of ComBrio, the assignee of the present application), and the undersigned on February 14, 2008.

In the interview, it was pointed out that in Tuomenoksa first and second gateways have TCP control tunnels with a network operation center (NOC). These control tunnels allow the NOC to asynchronously communicate with the first and second gateways, even if those gateways are inaccessible behind a firewall, and to instruct the gateways to establish data tunnels between the

gateways. Without these control tunnels, however, the NOC could not asynchronously communicate with the gateways when they are inaccessible behind a firewall.

The substance of proposed new claims was provided to the examiner. It was proposed that the claims be divided into method and apparatus claims for controlling or directing, and method and apparatus claims for a private network with one or more devices being controlled.

The proposed claims recite that periodic messages are sent from one network and received by another network. The network that receives the periodic message can send a response message, in response to one of the periodic messages, that includes a request to open a tunnel. The periodic messages can include status information. In response, a request message requests that a tunnel be opened. A persistent VPN is not required to provide signaling information for a data tunnel to be created. The signaling information can be sent via HTTP (including HTTPS). Tuomenoksa does not have such a configuration with periodic messages and responsive requests.

The examiner indicated that any conclusions would be subject to further consideration and search, but gave a preliminary indication that claims with the suggested features appear to patentably distinguish Tuomenoksa.

Notwithstanding any comments made in the interview, the claims should be evaluated based on what they recite, as the interview included general discussion about the assignee and its current products as implemented.

#### **CLAIM REJECTIONS – 35 U.S.C. § 102 AND § 103**

Claims 1-12 and 14-19 were rejected under § 102 as being anticipated by Tuomenoksa, and claim 13 was rejected as being unpatentable over Tuomenoksa in view of Markham.

Claims 1-19 have been cancelled and new claims 20-47 are provided. It is believed that these claims are supported by the specification and that no new matter has been added.

For at least the reasons indicated above in the interview summary, new claims 20-47 are not anticipated by, and would not have been obvious over, Tuomenoksa itself or in combination with

Markham. Tuomenoksa, for example, does not use the approach of periodic messages and a response message to open a tunnel.

The claims of the present application should be in condition for allowance, and accordingly a notice of allowance is respectfully requested. If the examiner believes that the application is not in condition for allowance, he is urged to contact applicants' attorney at the telephone number listed below.

The Commissioner is hereby authorized to charge any fee deficiency associated with this submission, or credit any overpayment to Deposit Account No. 08-0219.

Respectfully submitted,

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